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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/618,940	07/15/2003	Sylvester Roebuck JR.	LOA512	6661
44088	7590	10/06/2005	EXAMINER	
SEAN KAUFHOLD P. O. BOX 89626 SIOUX FALLS, SD 57109			GROSSO, HARRY A	
			ART UNIT	PAPER NUMBER

3727

DATE MAILED: 10/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/618,940

Applicant(s)

ROEBUCK ET AL.

Examiner

Harry A. Grosso

Art Unit

3727

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date. _____ | 6) <input type="checkbox"/> Other: _____ |

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on July 6, 2005 has been entered.

Specification

1. The amendment filed July 6, 2005 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: the guides spaced from one of said end wall portions at a distance of approximately one quarter of the width of one of the side wall portions, a pair of said guides positioned adjacent to one of said sidewall portions being spaced from each other a distance approximately equal to one half of the width of said side wall portion (claims 9, 12, 13). The specification does not define the location of the guides on the sidewall. The drawings illustrate this positioning in general but are not indicated to be drawn to scale and cannot be relied on for locating the guides to this exactness.

Applicant is required to cancel the new matter in the reply to this Office Action.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 3-8 and 10-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dumengo, of record, in view of Carswell et al (4,410,104) (Carswell).

4. Regarding claim 1, Dumengo discloses a device with a bottom wall (Figures 5-7, 102), a peripheral wall (104) with a generally rectangular horizontal cross section, a plurality of guides (120) attached indirectly to an inner surface of the walls, a panel (110) mounted on the guides and a biasing member (112). Dumengo does not teach a hinged lid on the container. Carswell discloses a device with a hingedly attached lid for keeping the contents contained and protecting the contents from undesired access (14, Figures 1 and 3, column 3, lines 11-14). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use of a hinged lid as disclosed by Carswell in the device disclosed by Dumengo to keep the contents contained and protecting the contents from undesired access.

Dumengo does not teach the guides are positioned closely adjacent to a sidewall portion and spaced from the end wall portions. Carswell discloses a device with a moveable panel for lifting the contents and shows that positioning the guides adjacent to a sidewall and spaced from the end walls is an equivalent structure known in the art (Figure 3). Therefore, because these two alternatives for positioning the guides were

Art Unit: 3727

art-recognized equivalents at the time the invention was made, one of ordinary skill in the art would have found it obvious to substitute positioning of the guides adjacent a side wall and spaced from the end wall as disclosed by Carswell for the positioning disclosed by Dumengo.

5. Regarding claim 3, Dumengo discloses the guides extend generally between the bottom wall and the upper edge.

6. Regarding claims 4-6, the device of claim 3 is disclosed and the panel has a size and shape generally equal to the inner perimeter of the container. Dumengo further discloses in the embodiment of Figures 2 and 3 that the guides can be a pair of elongate members spaced from each other and positioned in slots in the panel. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use of a pair of elongate members spaced from each other as disclosed by Dumengo in the device disclosed in claim 3 to provide better guides for the movement of the panel. The guides can be positioned in a triangular configuration or three guides can be used when positioning the guides away from the end wall and adjacent to the sidewalls.

7. Regarding claims 7 and 8, Dumengo discloses a plurality of biasing members that are springs.

8. Regarding claims 10, 11 and 14, Dumengo discloses the sidewall portions are relatively larger than the end wall portions in the horizontal plane and the sidewalls and end walls converge at corners with an arcuate transition (Figures 1 and 4).

9. Regarding claims 12 and 13, Dumengo and Carswell disclose the device of claim 11 except for positioning of the guides a distance of approximately one quarter of the width of the sidewall from the end wall and spacing a pair of guides from each other a distance approximately one half the width of the side wall. It would have been an obvious matter of design choice to position the guides a distance of approximately one quarter of the width of the sidewall from the end wall and space a pair of guides a distance approximately one half the width of the side wall from each other, since applicant has not disclosed that this spacing solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with a the spacing at a variety of distances.

10. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dumengo in view of Carswell and Meloney. Dumengo and Carswell disclose all of the structure of the device as recited in claim 9 as discussed above but they do not disclose the panel moves as clothes are added and removed from the device. Meloney discloses a hamper device with a moveable panel (32) for moving clothes out of the hamper (column 2, lines 24-25). It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the device for clothes as disclosed by Meloney so that the panel would move up and down as clothes removed from or added to the panel.

Response to Arguments

11. Applicant's arguments filed July 6, 2005 have been fully considered but they are not persuasive. Applicant argues that Dumengo and Walton do not disclose the

Art Unit: 3727

positioning of the guides adjacent to the sidewall and spaced from the end walls. In response, this has been addressed by the prior art cited in the above action.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Harry A. Grosso whose telephone number is 571-272-4539. The examiner can normally be reached on Monday through Thursday from 7am to 4 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on 571-272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Nathan Newhouse
Supervisory Patent Examiner
Art Unit 3727

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